

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

JOHN FRANCIS,
#02253451,
Plaintiff,

v.

JOHN DOE,
Defendant.

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Civil Action No. **3:24-CV-3143-L-BK**

ORDER

On January 30, 2025, the Findings, Conclusions and Recommendation of the United States Magistrate Judge (“Report”) (Doc. 5) was entered, recommending that the court **dismiss without prejudice** as frivolous *pro se* John Francis’s (“Plaintiff” or “Mr. Francis”) Civil Complaint (“Complaint”) (Doc. 3). No objections have been filed, and the 14-day period to object after service of the Report has passed. *See* Fed. R. Civ. P. 72(b)(1)(2); 28 U.S.C. § 636(b)(1)(C).

As an initial matter, the magistrate judge determined that “venue is not properly laid in this district.” Report 2. Magistrate Judge Renée Toliver determined that the Complaint does not clearly state the nature of Plaintiff’s claims, does not set forth how Plaintiff’s claims are connected to the Northern District of Texas, and fails to include the name of any defendant. *Id.* Further, the magistrate judge determined that all of Plaintiff’s claims are based on events that occurred in Anderson County, which is located outside of the Northern District of Texas. *Id.* As a result, the magistrate judge determined that venue is not proper here.

Second, Magistrate Judge Toliver determined that Plaintiff’s pleadings are frivolous. *Id.* at 3. The magistrate judge concluded that because Mr. Francis did not pay the filing fee, his

Complaint is subject to screening pursuant to 28 U.S.C. § 1915(e)(2)(B) and 28 U.S.C. § 1915A(b). *Id.* at 4. Magistrate Judge Toliver determined that even construing the pleadings liberally, Plaintiff fails “to state a viable legal claim or anything that can be construed as such.” *Id.* Accordingly, the magistrate judge concluded that dismissal without prejudice as frivolous is warranted.

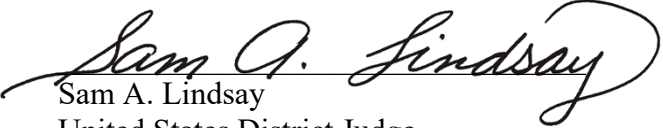
Third, the magistrate judge determined that “[b]ased on the most deferential review of his complaint, it is highly unlikely that, given the opportunity, Francis could allege cogent and viable legal claims.” *Id.* As a result, Magistrate Judge Toliver concluded that granting leave to amend would be futile and cause needless delay. Finally, Magistrate Judge Toliver determined that because Mr. Francis has filed over 20 actions since February 2024—at least 15 of which have been dismissed—she recommends that the court warn Plaintiff that if he persists in filing frivolous lawsuits, the court may impose sanctions. *Id.* at 5.

Having considered Plaintiff’s pleadings, the file, record in this case, and Report, the court determines that the findings and conclusions of the magistrate judge are correct, and **accepts** them as those of the court. Accordingly, the court **dismisses without prejudice** this action and claims by Mr. Francis. **Further, the court directs the clerk of the court not to accept any future actions from this Plaintiff unless he first obtains leave from a district or magistrate judge.**

The court also prospectively **certifies** that any appeal of this action would not be taken in good faith. *See* 28 U.S.C. § 1915(a)(3); Fed. R. App. P. 24(a)(3). In support of this certification, the court **accepts and incorporates** by reference the Report. *See Baugh v. Taylor*, 117 F.3d 197, 202 and n.21 (5th Cir. 1997). Based on the Report, the court finds that any appeal of this action would present no legal point of arguable merit and would, therefore, be frivolous. *See Howard v.*

King, 707 F.2d 215, 220 (5th Cir. 1983). In the event of an appeal, Plaintiff may challenge this certification by filing a separate motion to proceed *in forma pauperis* on appeal with the clerk of the United States Court of Appeals for the Fifth Circuit. *See Baugh*, 117 F.3d at 202; Fed. R. App. P. 24(a)(5).

It is so ordered this 26th day of March, 2025.


Sam A. Lindsay
United States District Judge